

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

ERICK DONTAY GRAYSON,

Plaintiff,

v.

LAURA PEREZ, et al.,

Defendants.

Case No.: 1:24-cv-00311-KES-SKO

**ORDER DEFERRING RULING ON
FINDINGS AND RECOMMENDATIONS TO
DISMISS ACTION FOR PLAINTIFF'S
FAILURE TO OBEY COURT ORDERS AND
FAILURE TO PROSECUTE**

Doc. 12

Plaintiff Erick Dontay Grayson is proceeding pro se and in forma pauperis in this civil rights action pursuant to 42 U.S.C. § 1983. Docs. 1, 9. This matter was referred to a United States magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On May 9, 2024, the assigned magistrate judge screened plaintiff's complaint and found that it failed to state a claim upon which relief could be granted. Doc. 10 at 7. In the screening order, the magistrate judge provided plaintiff two options: "(1) file an amended complaint curing the deficiencies identified by the Court in this order, or (2) file a notice of voluntary dismissal" within twenty-one days. *Id.* at 8. Plaintiff failed to file an amended complaint or notice of voluntary dismissal. *See* Docket. On June 11, 2024, the assigned magistrate judge recommended this action be dismissed for plaintiff's failure to obey court orders and failure to prosecute. Doc. 12. The findings and recommendations were served on plaintiff and contained notice that

1 any objections thereto were to be filed within fourteen days of service. *Id.* at 4. Plaintiff did not
2 file any objections, and the deadline to do so has passed. Nor has plaintiff otherwise
3 communicated with the Court to date.

4 In accordance with 28 U.S.C. § 636(b)(1), this Court conducted a de novo review of this
5 case. The Court's May 9, 2024, initial screening order invited plaintiff to either amend his
6 complaint or file a voluntary dismissal. Doc. 10 at 8. However, no option was afforded to
7 plaintiff to stand on his initial complaint alleging Eighth Amendment violations against
8 defendant. *Id.*

9 Accordingly, the Court defers its ruling on the findings and recommendations to provide
10 plaintiff a **final** opportunity to notify the Court of his intent. Within thirty days of the date of
11 service of this Order, plaintiff must: (1) file a notice stating his intention to stand on his initial
12 complaint, Doc. 1, which may be subject to the recommendation of dismissal for the reasons
13 stated in the screening order, Doc. 10; (2) file an amended complaint curing the deficiencies
14 identified in the screening order, Doc. 10; or (3) voluntarily dismiss this action without prejudice
15 under Federal Rule of Civil Procedure 41.

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Accordingly, IT IS HEREBY ORDERED:

1. **Within thirty days of the date of service** of this Order, plaintiff must:
 - a. file a notice stating his intention to stand on his initial complaint, Doc. 1, which may be subject to the recommendation of dismissal for the reasons stated in the screening order; OR
 - b. file an amended complaint curing the deficiencies stated in the screening order, Doc. 10; OR
 - c. voluntarily dismiss this action without prejudice under Federal Rule of Civil Procedure 41.
2. **Failure to timely respond to this Order will result in the dismissal of this action.**

IT IS SO ORDERED.

Dated: December 19, 2024


UNITED STATES DISTRICT JUDGE